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THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

CHANEL, INC., a New York corporation, and )  
TIFFANY (NJ), LLC., a Delaware limited )  
liability company, )

Plaintiffs, )

v. )

T-SHIRT WEARHOUSE, INC., an inactive )  
Florida corporation, and RICHARD LEVY, )  
and DOREEN LEVY, individuals, individually )  
and jointly, d/b/a T-SHIRT WEARHOUSE )  
and DOES 1-10, )

Defendants. )

CASE NO.

FILED UNDER SEAL

8:10cv1551-T30

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CLERK U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

FILED

**VERIFIED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

Plaintiffs, CHANEL, INC., a New York corporation ("Chanel") and TIFFANY (NJ), LLC., a Delaware limited liability company ("Tiffany") hereby sue Defendants, T-SHIRT WEARHOUSE, INC., an inactive Florida corporation, and RICHARD LEVY and DOREEN LEVY, individuals (collectively the "Levys"), individually and jointly, d/b/a T-SHIRT WEARHOUSE (collectively the "T-Shirt Wearhouse Defendants") and DOES 1 - 10 (collectively "Defendants") and allege as follows:

**JURISDICTION AND VENUE**

1. This is an action pursuant to (i) 15 U.S.C. §§ 1114, 1116, 1121 and 1125(a). Accordingly, this Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338. This Court has personal jurisdiction over the Defendants and venue is proper in this District pursuant 28 U.S.C. § 1391 since the named Defendants reside, commit torts, and conduct business with consumers





**Verified Complaint for Damages  
And Injunctive Relief**

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within this Judicial District through at least the business operations known as T-Shirt Wearhouse, Inc. and T-Shirt Wearhouse.

### THE PARTIES

2. Chanel is a corporation duly organized under the laws of the State of New York with its principal place of business in the United States located at Nine West 57th Street, New York, New York 10019. Chanel is, in part, engaged in the business of manufacturing and distributing throughout the world, including within this Judicial District, high quality handbags, sunglasses, necklaces, bracelets and costume jewelry under Federally registered trademarks, including but not limited to , , , , **CHANEL** and CHANEL (collectively the "Chanel Marks").

3. Tiffany is a Delaware limited liability company with its principal place of business in the United States located at 15 Sylvan Way, Parsippany, NJ 07054. Tiffany is engaged in the business of manufacturing and distributing throughout the world, including within this Judicial District, high quality jewelry, namely, necklaces, pendants, bracelets, and earrings under Federally registered trademarks, including but not limited to T & CO., TIFFANY, TIFFANY & CO., *TIFFANY & CO.*, **TIFFANY** and *Tiffany & Co.* (collectively the "Tiffany Marks").

4. T-Shirt Wearhouse, Inc. is an inactive Florida corporation organized under the laws of the State of Florida, and conducts business within this Judicial District at 1498 Gulf to Bay Boulevard, Clearwater, Florida 33755. The Levys, are individuals, who upon information and belief, resides within this Judicial District at 343 South Highland Avenue, Clearwater, Florida 33755, and conduct business within this Judicial District at 1498 Gulf to Bay Boulevard, Clearwater, Florida 33755 and 7801 Park Boulevard, Section J&K, Pinellas Park, Florida 33781. The Levys, upon information and belief, are the moving and conscious forces behind the operation of T-Shirt Wearhouse, Inc., within this Jurisdiction. Upon information and belief, the

T-Shirt Wearhouse Defendants use "T-Shirt Wearhouse" as an alias in the operation of their business.




5. Upon information and belief, the T-Shirt Wearhouse Defendants are directly engaging in the promotion and sale of counterfeit and infringing products within this District as alleged herein.





6. Defendant Does 1-5 are, upon information and belief, individuals who reside and/or conduct substantial business within this Judicial District. Further, Does 1-5 are directly and personally contributing, inducing and engaging in the sale of counterfeit products as alleged herein as partners or suppliers to the named Defendants. Plaintiffs are presently unaware of the true names of Does 1-5. Plaintiffs will amend this Complaint upon discovery of the identities of such fictitious Defendants.

7. Defendant Does 6-10 are business entities which, upon information and belief, reside and/or conduct business within this Judicial District. Moreover, Does 6-10 are, upon information and belief, directly engaging in the sale of counterfeit products as alleged herein as partners or suppliers to the named Defendants. Plaintiffs are presently unaware of the true names of Does 6-10. Plaintiffs will amend this Complaint upon discovery of the identities of such fictitious Defendants.

#### **COMMON FACTUAL ALLEGATIONS**

8. Chanel is the owner of the following United States Federal Trademark Registrations:

<b><u>Mark</u></b>	<b><u>Registration No.</u></b>	<b><u>Registration Date</u></b>
	3,025,934	December 13, 2005
	3,022,708	December 6, 2005
	1,734,822	November 24, 1992
CHANEL	1,733,051	November 17, 1992
CHANEL	1,347,677	July 9, 1985

	1,314,511	January 15, 1985
CHANEL	0,626,035	May 1, 1956
<b>CHANEL</b>	0,612,169	September 13, 1955
CHANEL	0,902,190	November 10, 1970
	1,501,898	August 30, 1988
CHANEL	1,510,757	November 1, 1988
CHANEL	3,133,139	August 22, 2006
	1,654,252	August 20, 1991
	3,025,936	December 13, 2005
CHANEL	1,238,001	May 17, 1983
CHANEL	1,571,787	December 19, 1989
CHANEL	0,955,074	March 13, 1973

which are registered in International Classes 9, 14 and 18 and are used in connection with the manufacture and distribution of, among other things, high quality handbags, sunglasses, necklaces, bracelets and costume jewelry.

9. Tiffany is the owner and/or exclusive licensee of the following United States Federal Trademark Registrations:

<u>Mark</u>	<u>Registration No.</u>	<u>Registration Date</u>
TIFFANY	1,228,409	February 22, 1983
TIFFANY & CO.	1,288,189	February 22, 1983
T & CO.	1,669,365	December 24, 1991
TIFFANY & CO.	0,023,573	September 5, 1893

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TIFFANY

0,133,063

July 6, 1920

*Chanel*

1,807,381

November 30, 1993

which are registered in International Class 14, and are used in connection with the manufacture and distribution of, among other things, high quality jewelry, namely, necklaces, pendants, bracelets, and earrings (the "Tiffany Marks").

10. The Chanel Marks and the Tiffany Marks (collectively the "Plaintiffs' Respective Marks" or "Respective Marks") have been used in interstate commerce to identify and distinguish each Plaintiff's high quality handbags, sunglasses, jewelry, namely, necklaces, bracelets, earrings and rings and other goods for an extended period of time.

11. The Plaintiffs' Respective Marks have never been assigned or licensed to any of the Defendants in this matter.

12. The Plaintiffs' Respective Marks are symbols of each Plaintiff's quality, reputation and goodwill and have never been abandoned.

13. Further, the Plaintiffs have expended substantial time, money and other resources developing, advertising and otherwise promoting their Respective Marks. The Plaintiffs' Marks qualify as famous marks as that term is used in 15 U.S.C. §1125(c)(1).

14. Plaintiffs have extensively used, advertised and promoted their Respective Marks in the United States in association with the sale of high quality handbags, sunglasses, jewelry, namely, necklaces, bracelets, earrings and rings, and other goods and have carefully monitored and policed the use of their Respective Marks.

15. As a result of Plaintiffs' efforts, members of the consuming public readily identify merchandise bearing their Respective Marks, as being high quality merchandise sponsored and approved by the Plaintiffs.

16. Accordingly, the Plaintiffs' Respective Marks have achieved secondary meaning as identifiers of high quality handbags, sunglasses, jewelry, namely, necklaces, bracelets, earrings and rings and other goods.

17. Upon information and belief, at all times relevant hereto, the Defendants in this action had full knowledge of the Plaintiffs' ownership of their Respective Marks, including their exclusive right to use and license such intellectual property and the goodwill associated therewith.

18. The Plaintiffs have discovered the Defendants are promoting and otherwise advertising, distributing, selling and/or offering for sale counterfeit products, including at least handbags, sunglasses, jewelry, namely, necklaces, bracelets, earrings and rings bearing trademarks which are exact copies of the Plaintiffs' Respective Marks (the "Counterfeit Goods"). Specifically, upon information and belief, the Defendants are using the Plaintiffs' Respective Marks in the same stylized fashion, for different quality goods.

19. Upon information and belief, the Defendants' Counterfeit Goods are of a quality substantially different than that of the Plaintiffs' genuine goods. Despite the nature of their Counterfeit Goods and the knowledge they are without authority to do so, the Defendants, upon information and belief, are actively using, promoting and otherwise advertising, distributing, selling and/or offering for sale substantial quantities of their Counterfeit Goods with the knowledge that such goods will be mistaken for the genuine high quality products offered for sale by each Plaintiff. The net effect of the Defendants' actions will be to result in the confusion of consumers who will believe the Defendants' Counterfeit Goods are genuine goods originating from and approved by the Plaintiffs.

20. The Defendants advertise their Counterfeit Goods for sale to the consuming public. In so advertising these products, the Defendants use the Plaintiffs' Respective Marks. Indeed, the Defendants herein misappropriated each Plaintiff's advertising ideas and entire style of doing business with regard to the advertisement and sale of their genuine products. Upon information and belief, the misappropriation of each Plaintiff's advertising ideas in the form of their Respective Marks has occurred, in part, in the course of Defendants' advertising activities and has been the proximate cause of damage to each Plaintiff.

21. Upon information and belief, the Defendants are conducting their counterfeiting and infringing activities at least within this Judicial District and elsewhere throughout the United States. As a result, the Defendants are defrauding the Plaintiffs and the consuming public for the Defendants' own benefit. Defendants' infringement and disparagement of the Plaintiffs does not simply amount to the wrong description of their goods or the failure of the goods to conform to the advertised quality or performance.

22. The Defendants' use of the Plaintiffs' Respective Marks, including the promotion and advertising, reproduction, distribution, sale and offering for sale of their Counterfeit Goods, is without the Plaintiffs' consent or authorization.

23. Further, the Defendants are engaging in the above-described illegal counterfeiting and infringing activities knowing and intentionally or with reckless disregard or willful blindness to the Plaintiffs' rights for the purpose of trading on the goodwill and reputation of each Plaintiff. If the Defendants' intentional counterfeiting and infringing activities are not preliminarily and permanently enjoined by this Court, the Plaintiffs and the consuming public will continue to be damaged.

24. The Defendants' above identified infringing activities are likely to cause confusion, deception and mistake in the minds of consumers, the public and the trade. Moreover, the Defendants' wrongful conduct is likely to create a false impression and deceive customers, the public and the trade into believing there is a connection or association between each Plaintiff's genuine goods and the Defendants' Counterfeit Goods.

25. The Plaintiffs have no adequate remedy at law.

26. The Plaintiffs are suffering irreparable injury and have suffered substantial damages as a result of the Defendants' counterfeiting and infringing activities.

27. The injuries and damages sustained by the Plaintiffs have been directly and proximately caused by the Defendants' wrongful reproduction, use, advertisement, promotion, offering to sell, and sale of their Counterfeit Goods.

28. The Plaintiffs have retained the undersigned counsel to represent them in this matter and is obligated to pay said counsel a reasonable fee for such representation.

#### **COUNT I - TRADEMARK COUNTERFEITING AND INFRINGEMENT**

29. The Plaintiffs hereby readopt and re-allege the allegations set forth in Paragraphs 1 through 28 above.

30. This is an action for trademark counterfeiting and infringement against the Defendants based on their promotion, advertisement, distribution, sale and/or offering for sale of the Counterfeit Goods bearing the Plaintiffs' Respective Marks.

31. Specifically, Defendants are promoting and otherwise advertising, selling, offering for sale and distributing counterfeit and infringing handbags, sunglasses, jewelry, namely, necklaces, bracelets, earrings and rings bearing the Plaintiffs' Respective Marks. The Defendants are continuously infringing and inducing others to infringe the Plaintiffs' Respective

Marks by using them to advertise, promote and sell counterfeit handbags, sunglasses, jewelry, namely, necklaces, bracelets, earrings and rings.

32. Defendants' counterfeiting and infringing activities are likely to cause and actually are causing confusion, mistake and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' Counterfeit Goods bearing the Plaintiffs' Respective Marks.

33. The Defendants' unlawful actions have caused and are continuing to cause unquantifiable damages to each Plaintiff.

34. Defendants' above-described illegal actions constitute counterfeiting and infringement of the Plaintiffs' Marks in violation of each Plaintiff's rights under § 32 of the Lanham Act, 15 U.S.C. § 1114.

35. The Plaintiffs have suffered and will continue to suffer irreparable injury due to the above described activities of the Defendants if the Defendants are not preliminarily and permanently enjoined.

**COUNT II - FALSE DESIGNATION OF ORIGIN  
PURSUANT TO § 43(a) OF THE LANHAM ACT**

36. The Plaintiffs hereby readopt and re-allege the allegations set forth in Paragraphs 1 through 28 above.

37. The Defendants' Counterfeit Goods bearing and sold under the Plaintiffs' Respective Marks have been widely advertised and distributed throughout the United States.

38. The Defendants' Counterfeit Goods bearing and sold under the Plaintiffs' Respective Marks are virtually identical in appearance to each of each Plaintiff's respective genuine goods. However, the Counterfeit Goods are different and likely inferior in quality.

Accordingly, the Defendants' activities are likely to cause confusion in the trade and among the general public as to at least the origin or sponsorship of the Counterfeit Goods.

39. The Defendants, upon information and belief, have used in connection with their sale of Counterfeit Goods, false designations of origins and false descriptions and representations, including words or other symbols and trade dress which tend to falsely describe or represent such goods and have caused such goods to enter into commerce with full knowledge of the falsity of such designations of origin and such descriptions and representations, all to the detriment of the Plaintiffs.

40. Specifically, the Defendants have authorized an infringing use of the Plaintiffs' Respective Marks, in the Defendants' advertisement and promotion of their counterfeit and infringing handbags, sunglasses, jewelry, namely, necklaces, bracelets earrings and rings. The Defendants, have misrepresented to members of the consuming public that the Counterfeit Goods being advertised and sold by them are genuine, non-infringing products.

41. The Defendants' above-described actions are in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

42. The Plaintiffs have sustained injury and damage caused by Defendants' conduct, and absent an entry of an injunction by this Court, the Plaintiffs will continue to suffer irreparable injury to their goodwill and business reputation as well as monetary damages.

#### **PRAYER FOR RELIEF**

43. WHEREFORE, the Plaintiffs demand judgment jointly and severally against the Defendants as follows:

a. The Court enter a preliminary and permanent injunction enjoining Defendants, their agents, representatives, servants, employees, and all those acting in concert or participation therewith, from manufacturing or causing to be manufactured, importing,

advertising or promoting, distributing, selling or offering to sell their Counterfeit Goods; from infringing, counterfeiting, or diluting the Plaintiffs' Respective Marks; from using the Plaintiffs' Respective Marks, or any mark or trade dress similar thereto, in connection with the sale of any unauthorized goods; from using any logo, trade name or trademark or trade dress which may be calculated to falsely advertise the services or products of the Defendants as being sponsored by, authorized by, endorsed by, or in any way associated with the Plaintiffs; from falsely representing themselves as being connected with the Plaintiffs, through sponsorship or association, or engaging in any act which is likely to falsely cause members of the trade and/or of the purchasing public to believe any goods or services of the Defendants, or in any way endorsed by, approved by, and/or associated with the Plaintiffs; from using any reproduction, counterfeit, copy, or colorable imitation of the Plaintiffs' Respective Marks in connection with the publicity, promotion, sale, or advertising of any goods sold by the Defendants, including, without limitation, handbags, sunglasses, jewelry, namely, necklaces, bracelets, earrings and rings, and other goods; from affixing, applying, annexing or using in connection with the sale of any goods, a false description or representation, including words or other symbols tending to falsely describe or represent Defendants' goods as being those of either Plaintiff, or in any way endorsed by either Plaintiff and from offering such goods in commerce; and from otherwise unfairly competing with either Plaintiff.

b. The Defendants be required to account to and pay each Plaintiff for all profits and damages resulting from Defendants' trademark infringing and counterfeiting activities and that the award to each Plaintiff be trebled, as provided for under 15 U.S.C. §1117, or, at the Plaintiffs' election with respect to Count I, that each Plaintiff be awarded statutory damages from each Defendants in the amount of two million dollars (\$2,000,000.00) per each counterfeit of the Plaintiffs' Respective Mark used and product sold, as provided by 15 U.S.C. §1117(c)(2) of the Lanham Act.

c. The Plaintiffs be awarded corrective advertising damages.

d. The Plaintiffs be awarded pre-judgment interest on their respective judgment.

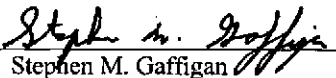
e. The Plaintiffs be awarded their costs, including cost of storage and destruction of seized goods, and reasonable attorneys' fees and investigators' fees associated with bringing this action.

f. The Plaintiffs be awarded such other and further relief as the Court may deem just and proper.

DATED this 13<sup>th</sup> day of July, 2010.

Respectfully submitted,

By:




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Attorney for PLAINTIFFS  
CHANEL, INC., a New York corporation  
And TIFFANY (NJ), LLC., a limited  
liability company

### VERIFICATION

I have read the forgoing Complaint and know its contents. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Dated this 27<sup>th</sup> day of July, 2010.

  
Adrienne Hahn Sisbarro  
Director, Legal Administration

### VERIFICATION

I have read the forgoing Complaint and know its contents. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Dated this 12<sup>th</sup> day of July, 2010.



Steven Costello  
Trademark Enforcement Specialist

